



SEP 1 1988

THE ATTORNEY GENERAL  
STATE HOUSE ANNEX  
25 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

August 9, 1988

Carl C. McKenney, Chief  
Licensing and Enforcement  
State Liquor Commission  
Storrs Street  
P.O. Box 503  
Concord, New Hampshire 03301

Dear Mr. McKenney:

You have forwarded to us an inquiry from Miller Brewer Company (Miller) which asks whether it is permissible for a sister company of Miller, the Philip Morris Credit Corporation (Philip Morris), to engage in financial transactions with wholesalers of Miller Products in New Hampshire. Specifically, Miller has asked whether Philip Morris may make loans to Miller distributors in the ordinary course of business at current or near current market rates, subject to standard business terms and conditions. Miller would not guarantee repayment of these loans which would include:

1. Loans for inventory purchases from Miller with the loans being secured by the inventory.
2. Loans for the purchases of trucks and equipment, with the loans being secured by liens on the equipment.
3. Short term loans for current operating expenses such as advertising and sponsorship programs.
4. Loans to applicants for the acquisition of the goodwill and assets of a distributorship.



Without deciding whether sister corporations are to be considered as one entity under RSA 181, it is our opinion that Philip Morris may make loans to holders of wholesaler permits in New Hampshire.

RSA 181:22, I provides in pertinent part:

Holders of Manufacturer's and Other Permits;  
Prohibited Interests.

I. No holder of a manufacturer's permit, wholesaler's permit, solicitor's permit or a certificate of approval shall sell, cause to be sold, rent, lend or cause to be loaned, or give to an on-sale or off-sale permittee or to the owner of the premises on which the business of any on-sale or off-sale permittee is to be conducted any money, equipment, furniture, fixtures or property with which the business of any on-sale or off-sale permittee is to be conducted, nor shall any on-sale or off-sale permittee purchase, cause to be purchased, rent, borrow, solicit or accept from any holder of a manufacturer's permit, wholesaler's permit, solicitor's permit or a certificate of approval any money, equipment, furniture, fixtures or property with which the business of the on-sale or off-sale permittee is to be conducted,...(Emphasis added)

Additionally, RSA 181:15 provides in pertinent part:

Before a permit is issued the commission shall be satisfied...that in the case of any application for any on-sale or any off-sale permit no manufacturer or wholesaler of beverages other than the applicant has a substantial financial interest, direct or indirect, in the business or in the premises and that such business will not be conducted with any money, equipment, furniture, fixtures, or property rented from or loaned or given by any manufacturer or wholesaler;...

Each of these sections prohibit holders of a manufacturer's permit or a certificate of approval from engaging in financial transactions with holders of on-sale and off-sale permits. Because Philip Morris proposes to make loans to wholesalers of Miller products, who presumably hold wholesaler permits and do not hold on-sale or off-sale permits, there would be no violation of RSA 181:15 or RSA 181:22. Consequently, the proposed transactions between the manufacturer and Philip Morris would be permissible.

I trust that this has been responsive to your inquiry. If you would like to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Daniel J. Mullen". The signature is fluid and cursive, with the first name "Daniel" and last name "Mullen" clearly distinguishable.

Daniel J. Mullen  
Assistant Attorney General  
Civil Bureau

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